IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

(Ganpat Lal vs. Rent Tribunal ,Jodhpur & Ors.)
S.B.Civil Writ Petition No.7117/2007

Date of judgment:- 17.12.2007

HON'BLE MR.JUSTICE SANGEET LODHA

Mr. J.K.Bhaiya, for the petitioner.

BY THE COURT:-

This writ petition is directed against judgment and certificate dated 27.9.07, whereby an application preferred by the landlord Smt. Sua Devi and Shri Shrawan Kumar, respondents no.2 and 3 herein against the tenant Ghanshyam Sharma, respondent no. 4 herein u/ss. 6 and 9(a) & (l) of Rajasthan Rent Control Act, 2001(in short "the Act of 2001" hereinafter), has been allowed and so also against the order dated 27.9.07 rejecting the application preferred by the petitioner herein for impleading him as party in the matter.

In the aforesaid rent application preferred by the respondents no. 2 and 3 herein against the respondent no. 4 herein, the petitioner preferred an application dated 26.9.07 for impleading him party in the matter claiming himself to be owner of the premises in question. It was stated therein that the application has been preferred by Sua Devi and Shrawan Kumar

claiming themselves to be owner of the premises in question whereas the applicant is the real owner and the rent is being paid by the tenant to his mother Sua Devi under his instruction. The learned Tribunal noticed that in the reply to the rent application , the tenant – non applicant has nowhere stated that under the instruction of Shri Ganpat Lal, the petitioner herein, he is paying the rent to Smt. Sua Devi. The learned Tribunal being of the opinion that in an application preferred for eviction of a tenant from the suit premises, the Tribunal is not required to decide the title over the property and the Tribunal is only required to determine the landlord and tenant relationship between the parties, therefore, the application preferred by the applicant Ganpat lal claiming himself to be owner of the property is not maintainable. Accordingly, the application has been rejected.

It is to be noticed that the application for impleading him as party to the proceedings was preferred by the petitioner before the learned Tribunal at the stage when the arguments in the matter had already been concluded and the matter was posted for judgment. Thus, apparently, the application preferred by the petitioner lacks bona fide. It is contended by the petitioner that the suit filed by the respondents no. 2 and 3 herein for partition against the petitioner is pending before the Additional District Judge no.2,Jodhpur, therefore, by the decision of the said rent application , his rights are likely to be adversely

affected. It is not even the case of the petitioner that by decision of the rent application by the learned Tribunal as aforesaid, the question of title over the property stands adjudicated by the learned Tribunal,therefore, the question of petitioner's right , if any, regarding the title over the property being affected by the impugned judgment, does not arise.

Moreover, so far as the provisions of Act of 2001 are concerned, the relationship of landlord and tenant is only relevant for maintaining the application for revision of rent or eviction of the tenant from the suit premises.

Section 3(2) (c) of the Act of 2001 defines "landlord" means any person who for the time being is receiving or is entitled to receive the rent of any premises, whether on his own account or as an agent, trustee, guardian or receiver for any other person or who would so receive or be entitled to receive the rent if the premises is let to a tenant.

Thus, from bare perusal of the definition it is manifestly clear that the term 'landlord' as used in the Act of 2001,is not restricted to the owners of the premises. As per the aforesaid definition, the element of ownership of the suit premises is not the only or main characteristics of a landlord but, it is the receipt of the rent by the person, which is a relevant and important factor.Therefore, if the relationship of landlord and tenant between the parties to the rent application is established in terms of the provisions of the Act of 2001, the question with

regard to ownership of the suit premises is not required to be gone into for the purpose of adjudication of the lis between the parties.

Thus, the petitioner cannot be said to be a necessary or proper party to the said rent application decided by the learned Tribunal vide impugned judgment dated 27.9.07.

In my considered opinion, the learned Tribunal has committed no error in rejecting the application preferred by the petitioner for impleading him as party to the proceedings.

Accordingly, the writ petition is dismissed. No order as to costs.

(SANGEET LODHA),J.